

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8391 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA
and
Hon'ble MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

SHIVAM ALUMS & CHEMICALS

Versus

GUJARAT POLLUTION CONTROL BOARD

Appearance:

MR MIHIR H JOSHI for Petitioners
MR HARESH J TRIVEDI for Respondent, GPCB

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE R.R.TRIPATHI

Date of decision: 10/08/2000

ORAL JUDGEMENT : (Per M.R. Calla, J.)

It is submitted by the learned counsel for the

petitioner that site clearance in this case was given before 21.10.1999 for the new product "Yara Yara", i.e. the date on which directions were issued by this Court in Special Civil Application No.4473 of 1997. This factual position is not in dispute. Therefore, it is the common case of the parties that the units in question were not covered by the directions issued by this Court in Special Civil Application No.4473 of 1997 . Rejection of the consent orders in respect of the air and water were made by the Gujarat Pollution Control Board under the mistaken belief that this unit was covered under the directions issued by this Court on 21.10.1999, whereas the fact is that site clearance has been issued in this case prior to 21.10.1999, i.e. on 29.4.1999 and therefore, in this case consent could not be denied.

2. In this view of the matter, the orders impugned in this petition, namely, dated 20th June 2000 are hereby quashed and set aside and the respondent, Gujarat Pollution Control Board is directed to reconsider the application moved by the petitioner for the purpose of consent in accordance with law and the application for consent shall not be rejected only with reference to the directions issued in Special Civil Application No.4473 of 1997, which are admittedly not applicable in the facts of the present case. It will be open for the petitioner to carry on its industrial activities in accordance with law.

3. This Special Civil Application is accordingly allowed in the terms as aforesaid. Rule is made absolute accordingly. In the facts and circumstances no order as to cost.

(M.R. Calla, J.)

10th August 2000 (Ravi R. Tripathi, J.)

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